

**Cain Hibbard Myers & Cook<sup>PC</sup>**  
Counselors at Law

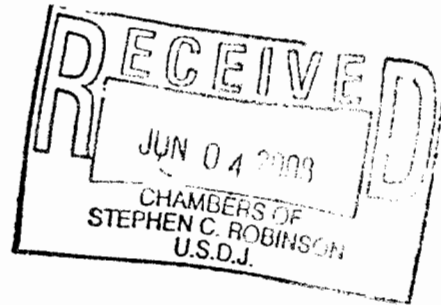
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**David Valicenti**

Admitted in MA and NY

June 2, 2008

The Honorable Stephen C. Robinson  
United States District Court Judge  
United States District Court  
Southern District of New York  
300 Quarrapopas Street, Room 633  
White Plains, New York 10601



**Re: Daniel R. Solin, et al. v. Anthony J. Domino, Jr.**  
**Case No. 08 CV 2837 (SCR)**

Dear Judge Robinson:

Plaintiffs request permission to file a Motion to Amend the Complaint to add Guardian Insurance & Annuity Company, Inc. ("Guardian") as a defendant. The proposed Amended Complaint is attached as Exhibit A.

This action was commenced on March 18, 2008. Plaintiff alleges professional malpractice against defendant Anthony Domino, an insurance agent, based on Domino's advice concerning the tax implications of the surrender of an annuity issued to plaintiffs by Guardian.

In Domino's Answer, he alleges that: (1) Domino was an agent for a disclosed principal, namely Guardian, (2) that Domino relied on information provided by Guardian in computing the taxable gain on the annuity, and (3) that Plaintiff has failed to join a necessary party. *See* Defendant's Answer, Exhibit B, ¶¶ 9, 11, 12.

This case is in its early stages. The Initial Case Management Conference is scheduled for September 5, 2008. Plaintiffs' counsel asked defendant's counsel for consent to file the Amended Complaint, but Defendant did not consent.

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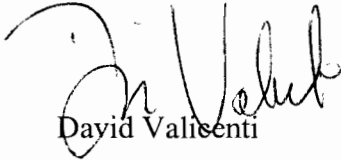
The propriety of the proposed amendment is governed by Rule 21 which states that a party may be added to an action "at any time, on just terms." Fed. R. Civ. P. 21. It is well established that joinder will be permitted absent undue delay, bad faith, prejudice, or futility.

Plaintiffs are unaware of any legitimate reason why this motion, promptly made in response to the answer and affirmative defenses served by defendant, should not be granted.

Accordingly, plaintiffs request that the Court permit plaintiffs to serve and file the proposed motion.

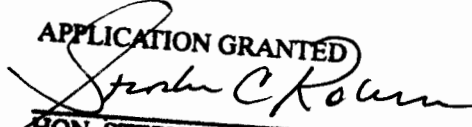
Very truly yours,

CAIN HIBBARD MYERS & COOK PC



David Valicenti

DEV/sau  
Enclosures  
Copy: Kevin J. Windels, Esq.

APPLICATION GRANTED  
  
HON. STEPHEN C. ROBINSON  
7/1/08